THE HON'BLE SRI JUSTICE G.CHANDRAIAH

W.P.NO.11355 OF 1998

O R D E R

This writ petition is filed for a writ of mandamus declaring the action of the 1st respondent – Commissioner, Municipal Corporation, Visakhapatnam in not providing a slaughterhouse, as arbitrary, illegal and contrary to the provisions of Visakhapatnam Municipal Corporation Act and consequently direct the 1st respondent to prove a slaughterhouse within the limits of Visakhapatnam Municipal Corporation.

2. From the above averments made in the writ affidavit it could be seen that the members of the petitioners ' - association belong to muslim community are eking out their livelihood by selling beef within the limits of Visakhapatnam Municipal Corporation and their case is that they are selling beef in the stalls provided by the Corporation by paying necessary licence fee and also kist for slaughtering of animals. It is their further case that on 9.5.1988 the existing slaughterhouse was closed on the ground of repairs and they were permitted to run at D.No.21-42-42-24 in Chengalraopet in Visakhapatnam and accordingly they were running the slaughterhouse in the said premises. Now their grievance is that though the earlier building was repaired, it was not allotted to them and in turn it was converted into a Kalyanamandapam and in spite of making number of representations, no slaughterhouse was provided and they are impliedly continuing at D.No.21-42-42-24 in Chengalraopet in Visakhapatnam and the officials of respondents 2 and 3 are harassing them by prohibiting them from doing their business and this amounts to violation of fundamental rights under Articles 19(1)(g) and 21 of the Constitution of India. Further as per Section 526 of the Hyderabad Municipalities Act, which was adapted by the Visakhapatnam Municipal Corporation Act, the Commissioner has to provide municipal markets and slaughterhouses. Therefore, they filed the present writ petition for appropriate directions.

3. On the other hand the counter of the 2nd respondent - Commissioner of Police, Visakhapatnam while denying the averments made in the writ affidavit is that as per the enquiry conducted Sub Inspector of Police through Assistant Commissioner of Police, the petitioners' - association is running slaughterhouse without any licence and in a thickly populated area without taking precautions which is resulting in causing infections and diseases and hence as per the report submitted by them on 29.7.1997 to the Collector, it was suggested to shift the slaughterhouse to the outskirts with the consent of the Muncipal authorities and the matter is within him.

4. This court while admitting the writ petition on 23.4.1998 passed the following interim orders in W.P.M.P.No.13746/1998:

"There shall be interim direction to the respondents to permit the members of the petitioner's Association to carry on the business in their respective stalls provided they have valid licence under the licence issued by competent authorities, pending further orders. There shall be a further direction to the respondents to consider the representation of the petitioners dated 12.9.1997 keeping in view the communication issued by the Collector dated 26.1.1997 pending further orders."

5. It is to be seen that as per Section 526 of the Hyderabad Municipalities Act, which is adapted by the Visakhapatnam Municipal Corporation, the Commissioner has to provide municipal markets and slaughterhouses. In the present case, there is dispute with regard to running of the slaughterhouse without licence and there is also dispute that it is being run in a thickly populated area without any precautions, resulting in causing infections and diseases. But it cannot be disputed that without any valid licence issued by the competent authority under the statute, the petitioners' – association cannot run slaughterhouse. Further the 2nd respondent submitted a report to the Collector on 29.7.1997 for shifting the slaughterhouses to the city outskirts with the consent of the municipal authorities and the said matter is pending consideration. From the material papers filed along with the writ petition it could be seen that the petitioners'- association made number of representations for providing of slaughterhouse and the latest one being dated 12.9.1997 to the Minister for Agriculture,

Government of Andhra Pradesh. In view of these circumstances and in the interest of justice and as per Section 526 of the Hyderabad Municipalities Act, I feel it appropriate to direct the 3rd respondent to dispose of the representation of the petitioners' - association keeping in view the report of the 2nd respondent – Commissioner of Police dated 29.7.1997.

6. Accordingly the writ petition is disposed of with following direction:

"The 3rd respondent – Collector shall dispose of the representation of the petitioners' - association in the light of the report of the 2nd respondent - Commissioner of Police dated 29.7.1997 within a period of two months from the date of receipt of a copy of this order after giving opportunity to the petitioners' association. In the meanwhile it is made clear that as per the interim directions of this court, the members of the petitioners' association are at liberty to carry on their business in their respective stalls, provided they have the valid licence issued by the competent authority."

7. No order as to costs.

AVS

20.03.2007